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585 at last a feast, liberally lubricated with pulque, took place.
[834] The bride and the groom, after this merciless treatment, retired for four days of penance and fasting, and not until that period elapsed did they consummate their marriage.

595 As is often the case in a warrior nation which suffers from
586 reduced man power, polygamy was prevalent. Yet the first wife took precedence over the others, and her children alone had the right to inherit. Concubines were permitted and there was, likewise, prostitution. Desertion was frowned upon, but a court would grant a decree of divorce under certain conditions. A man could obtain the right to cast out his wife if she were sterile, were subject to prolonged ill temper or neglected the household duty. The wife could be freed from a husband who failed to support her or educate the children or who ill-treated her in the physical sense, for the
[587] Aztecs had not invented mental cruelty. A divorced woman could remarry as she chose, but a widow had to marry a brother of her deceased husband or one of his clansmen.[a]

562 Women had definite rights, but they were inferior to those of men. They could hold property, enter into contracts and go to courts to obtain justice. In matters of sexual morality
[834] girls had to be chaste and wives faithful to their husbands. A
[837] man transgressed the rules of propriety only when his illicit relations involved a married woman. Otherwise his wife could not formally demand his fidelity. While the legal position of women was relatively low, judged by modern standards in the United States, personal influence was great, and there were several instances where a woman acted as regent when her son was too young to assume the office of chief. In mat-
[648] ters of tribal alliance we have seen how the marriage of a chief's daughter or sister to another ruler cemented an alliance.

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562 alliance. Moreover, marriages were carefully arranged be-
[584] tween families, so that for a husband grossly to neglect his wife's rights was a breach, if not of etiquette, certainly of
[793] social contract. The priesthood may have offered a modest field of influence and attainment to women. However, history records no mention of any advantage deriving from temple service.

554 Men had the chief opportunities, and these lay in various
555 directions. The early chroniclers, conditioned by their mediæval Spanish background, spoke of hereditary classes. In all probability, judging from Indian communities as a whole, there was *rank* but not *class* in the hereditary sense. As in our own society, a man could attain high *rank* through his own efforts, and through his eminence his children would consequently profit in their own social adjustment. Yet they could not reach their father's position unless they earned it through
[556] equivalent tribal service. *Wealth* did exist, and property in the form of rights to use land, tools and other possessions
[642 421] created a social and economic stratification. In theory and practice Aztec society was democratic, and the communal ownership of productive property was its economic base.[4]

555 A man attained rank through the measure of his tribal service. The wise farmer, the wily hunter, the brave warrior or the dexterous artisan gained admiration from his fellows because of superior skill. If his wisdom and judgment were conspicuous he might be elected as the clan representative to the tribal council, or even as chief. Similarly an individual who dedicated himself to learning the magic rituals to placate the gods, could become a medicine man or priest. However, in the populous and advanced city-states activities tended to become specialized, and greater opportunity led to a more

302 tance upon their heads; it was dyed with indigo,[3] so
386 that their hair shone. The teeth were stained with cochineal; the hands and neck were painted with designs—the necks were covered [with painting]. The stomach and breasts were [also] painted with designs.

515 They bathed in the sweat house and with [soap
562 and] water. They were held in esteem. They were modest, good, and of noble [mien]. Thus did they
[343] speak—attentively, and respectfully of others; they were diligent and considerate.

1 v [i.e. the Aztec women -- Analyst]

Motema, mahaltia, momamauizmati: pinaoanj, qualli mauiztic, injc tlatoa: temauhcaittanj, teimacaçanj, hiçiuhcaioque, moiolitlacoanj.

3. Xiuhquilitl. Urbina (op. cit., p. 565) mentions two kinds: xiuhquilitl pitzahuac, Indigofera sitil Lam., and xiuhquilitl patlahuac, Cassia tora; provide Klemash—both producing a blue dye.

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Granada.[105] It was different, however, in Mexico, where we meet with traces of a decided progress. Not only had descent been changed to the male line,[106] but heirship was limited, to the exclusion of the kin and of the agnates themselves, to the children of the male sex.[107] Whatever personal effects a father left, which were not offered up in sacrifice at the ceremonies of his funeral,[108] they were distributed among his male offsprings, and if there were none, they went to his brothers. Females held nothing whatever, beyond their wearing apparel and some few ornaments for personal use.

The "tlalmilli" itself, at the demise of a father, went to his oldest son, with the obligation to improve it for the benefit of the entire family until the other children had been disposed of by marriage.[109] But the other males could apply to the chief of the calpulli for a "tlalmilli" of their own:[110] the females went with

[105] Gomara ("Historia de las Indias," Vedia I, p. 201). Garcia ("Origen de los Indios," Lib. IV, cap. 23, p. 247). Piedrahita (Parte I, lib. I, cap. 5, p. 27). Joaquin Acosta ("Compendio historico del Descubrimiento y Colonizacion de la Nueva-Granada," Cap. XI, p. 201). Ternaux-Compans ("L'ancien Cundinamarca," pp. 21 and 38).

[106] Motolinia (Trat. II, cap. V, p. 120). Gomara (p. 434). Clavigero (Lib. VII, cap. XIII). Zurita (pp. 12 and 43).

[107] Letter of Motolinia and Diego d'Olarte, to Don Luis de Velasco, Cholula, 27 Aug., 1554 ("Recueil, etc., etc.," p. 467). "The daughters did not inherit, it was the principal, wife's son . . . ." Besides, nearly every author designates but a son, or sons,—as the heirs. There is no mention made of daughters at all. In Tlaxcallan, it is also expressly mentioned that the daughters did not inherit (Torquemada, Lib. XI, cap. XXII, p. 348). In general, the position of woman in ancient Mexico was a very inferior one, and but little above that which it occupies among Indians in general. (Compare the description of Gomara, p. 440. Vedia I, with those of Sahagun. Lib. X, cap. I, p. 1; cap. XIII, pp. 30, 31, 32 and 33. The fact is generally conceded). H. H. Bancroft, "Native Races." Vol. II, Cap. VI, p. 224, etc.

[108] Motolinia (Trat. II, cap. V, p. 120). Torquemada (Lib. XIII, cap. XLII to XLVIII, pp. 515 to 529). Acosta (Lib. V, cap. VIII, pp. 320, 321 and 322). Gomara (pp. 436 and 437. Vedia, I). Mendieta (Lib. II, cap. XI., pp. 162 and 163). Clavigero (Lib. VI, cap. XXXIX. "They burnt the clothes, arrows, and a portion of the household utensils . . . . .")

[109] Motolinia (Trat. II, cap. V, p. 120), "el cual hacer de testamento no se acostumbraba en esta tierra, sino que dejaban las casas y heredades á sus hijos, y el mayor, si era hombre, lo poseia y tenia cuidado de sus hermanos y hermanas, y yendo los hermanos creciendo y casándose, el hermano mayor partia con ellos segun tenia; y si los hijos eran por casar, entráhanse en la hacienda los mismos hermanos, digo en las heredades, y de ellas mantenian á sus sobrinos y de la otra hacienda." Gomara ("Conq. de Méjico," p. 434). "It is customary among tributary classes that the oldest son shall inherit the father's property, real and personal, and shall maintain and support all the brothers and nephews, provided they do what he commands them. The reason why they do not partition the estates is in order not to decrease it through such a partition . . . ." Simancas M. S. S ("Recueil, etc., etc.," p. 234). "Relative to the calpulalli . . . . the sons mostly inherited."

[110] Zurita (p. 55). "He who has no land applies to the chief of the tribe (calpulli), who, upon the advice of the other old men, assigns to him a tract suitable for his wants, and corresponding to his abilities and to his strength." Herrera (Dec. III, lib. IV, cap. XV, p. 153).

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174 the Mexican tribe in a more direct manner. It was the overthrow
648 and capture, after a short but bloody struggle, of the pueblo of Tlatilulco.[56] Owing to the close connection of the latter with the Mexicans both had remained on a non-hostile footing; for the suspicious watchfulness with which each viewed the other did not comport with any more intimate relations, those of trade and exchange excepted. When the confederacy came into existence, Tlatilulco was counted in as a part of Mexico, since its people acknowledged themselves to be Mexicans; but there is no evidence authorizing the conclusion that the Tlatilulca played any other role, beyond that of auxiliaries to their kindred of Tenuchtitlan.[57] The rash attempt of the former at the organization of a conspiracy to become "Mexico alone" terminated fatally; their place was taken and barbarously sacked, their leaders were killed in the fray or sacrificed afterwards, and the Mexicans, exasperated at the conduct of their treacherous kinsmen treated them in an unusually severe manner. We have seen already that, in any conquest, the conquered tribe, if not exterminated, was only subjected to more or less heavy tribute. But the Tlatilulca were dealt with far worse: [562] 174 648 727 they were degraded to the rank of "*women*," their public market was ordered closed, their council-house left to decay and their young men, expressly debarred from the privilege of carrying arms in aid of the Mexicans, were required to become the carriers of supplies to their captors. Such a punishment was unknown in the annals of Indian conquest, and appears even to militate against our views of aboriginal society in Mexico; still it was in perfect harmony with the institutions of the latter. The Tlatilulca were, as we should never forget, not only a tribe

[56] The "*Codex Telleriano-Remensis*" (Plate XIV, also explanation Vol. VI, p. 135), concurs in this date, or the year seven "calli" which is indeed 1473.

[57] This acknowledgment—"to be Mexicans"—on the part of the inhabitants of Tlatilulco, was in the nature of a *claim*, and with a spirit of jealousy and envy. Although *Durán* says (Cap. XXXII, p. 257), "aviendo estado hasta entonces sujetos á la corona real de Méjico," this affirmation is utterly disproven, not only by all the other sources, but by his own statements (Cap. V, pp. 43 and 46). The confused and contradictory tales about the state of war preceding the formation of the confederacy still make the Tlatilulca always appear as assisting their neighbors of Tenuchtitlan, more or less. Sometimes they were neutral only, and at times they may have felt inclined to foster attempts at destruction of their rivals by outsiders, but they still were afraid of the consequences of it for their own independence. *Durán* (Cap. V, p. 46). The singular statement that the Tlatilulca even attempted, though fruitlessly, to withdraw the Tezcucans and Tlacopans from Tenuchtitlan, inducing them to become their associates in the work of its overthrew, is significant. See *Torquemada* (Lib. II, cap. LVIII, p. 176) "Quisose aliar con los de Tlacupa, y Tetzcuco, los quales no le acudieron."

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565 of any connection by kin. This presupposes *a class of outcasts from the bond of kinship.*

There is no evidence of the formation of such a cluster prior to the permanent settlement of the tribe. Neither can we trace its gradual increase from a given time. But a glance at some of the rules of kinship, and at the practical working of these rules finally crystallizing into an equivalent for laws, will enable us to discern its origin.

121 The relation of sexes being at the bottom of society based upon kin, it follows that sexual intercourse gradually assumed a regulated shape, proportionate to the progress in institutions. The ancient Mexicans had, as we have already established, advanced into descent in the male line, and had secured a nascent state of the modern family. Marriage was well known to them [581] as a *rule*. But so powerful was the influence exercised by the kin, as unit of public life that, once the ritual union of a couple acknowledged as a necessity for future joint life, it exacted of its male members the obligation to marry for the purpose of propagating and increasing the kin. Only such as were naturally helpless, and such as in view of "medicine" made vows of permanent [587] chastity, were excused. Any other youth therefore, who refused to take a wife at the proper age, was treated with contempt and consequently expelled from the kin.[89]

● 562 Woman, among the aboriginal Mexicans, was in a singular predicament. Through the establishment of descent in the male line she lost her hold on public life, (which she latterly regained through the establishment of the family proper) and thus remained little else than a *chattel* in the power of man. Still, the ritual act 562 of marriage being once adopted, the same obligation to marry, 589 which we have already found incumbent upon the male, also devolved upon the female, and any girl therefore, who did not "take vows" for "medicine," or who was physically not mis-

[89] *Clavigero* (Lib. VII, cap. V, p. 461). *Zurita* ("*Rapport*, etc.," pp 133 and 134) "s'ils ne voulaient pas prendre des femmes, ou les congédiait." *Mendieta* (Lib. II, cap. XXIV, p. 125), "Llegados á la edad de casarse, ... Si pasando la edad se descuidaban, y veian que no se querian casar, tresquiládanlos, y despedianlos de la compañia de los mancebos." This meant exclusion from the kin since, as soon as they were married, "they were classified, since, according to their custom, they were divided into sections each of which had a chief or captain, as well for the collection of taxes as for other reasons." These "chiefs or captains" were those of the calpulli. *Zurita*, (p. 135), also *Bustamante*, ("*Tezcoco*," Part III, cap. III, p. 215), "Cuando se casaban los empadronaban. . . . ." *Torquemada* (Lib. IX, cap. XII, p. 186, almost a copy of Mendieta).

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shapen, if she did not join a husband at the proper age, was also regarded as a reprobate.[81]

To these two kinds of outcasts others should be added. It is a known fact that, if any member of a calpulli failed to cultivate his garden lot for two years, or if he failed to have it cultivated under his name, then he lost every and all rights thereto. This implied expulsion from the calpulli, consequently again, *expulsion from the bond of kinship.* Any one who removed from the quarter or calpulli to which he belonged, lost his rights thereby; in other words he became an outcast.[82]

The lot of such people, thrust, as they were, outside of the pale of regular society, was an unenviable one. Removal to foreign tribes was not only dangerous, but even impracticable in the earlier times, when the class came into existence. Still they had to *live.* Therefore the males bargained their services to such members of the kins, as could afford to nourish them in return for manual labor.[83] No other remuneration but subsistence could be thought of. For the sake of subsistence therefore the outcast became, what the majority of authorities have called a *slave.*

Fray Juan de Torquemada writes as follows; — "The manner, in which these Indians made slaves, was very different from that of the nations of Europe and other parts of the world. It was very difficult at the outset of their conversion to understand it properly, but to make it clear (especially as the customs of Mexico, and Tetzcuco had it, since other Provinces not subject to these king-

[81] *Anonymous Conqueror* (Vol. I, Col. de Doc., p. 397): "A gente che stima meno le donne di quanti natioui sono al mondo, perchi non gli comunichereble mai i fatti loro, anchora che conoscese che il farlo gli potesse meiter conto." *Oviedo* (Lib. XXXIII, cap. LI, p. 326). See *Torquemada* (Lib. XII, cap. III, p. 368), on "mancebas" in general in regard to women who refused to marry, though living a dissolute life. Also *Sahagun* (Lib. X, cap. XV, p. 37); *Zurita* (p. 129). If a girl abandoned her house, she might finally be disposed of as a slave, or be abandoned ("on les abandonnait").

[82] *Zurita* (p. 50): "Le propriétaire qui ne cultivait pas pendant deux années, par sa faute ou par négligence, sans juste cause, ... était averti de les cultiver; et s'il ne le faisait pas, l'année d'ensuite on les donnait à un autre." (Id. p. 54): "Si, par hazard, le membre d'un calpulli le quittait pour aller demeurer dans un autre, on lui retirait les terres qui lui avaient été assignées. . . . . Adopted also by *Herrera* (Dec. III, lib. IV, cap. XV, p. 128). Compare "*Tenure of Lands*" (p. 626).

[83] *Gomara* ("*Conquista*," Vedia I, p. 441): "Los hombres necesitados y haraganes se vendian. . . ." *Cortés* ("*Carta Segunda*," Vedia I, p. 84): "Hay en todos los mercados y lugares públicos de la dicha ciudad, todos los dias, muchas personas trabajadores y maestros de todos oficios, esperando quien los alquile por sus jornales." *Torquemada* (Lib. XIV, cap. XVI, pp. 564 and 565; and Cap. XVII, pp. 565 and 566). *Clavigero* (Lib. VII, cap. XVIII, p. 488).

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tants of the valley of their annual crops. In order to escape threatened famine, fathers bartered their services and those of their children for food, to such tribes as possessed sufficient stores.[87]

If the consequence of expulsion from the bond of kinship or of voluntary abandonment of the rights as members, were, for the male, a degradation to work for others, it was altogether different for the female. The position of women was, as we have already intimated, little better than that of a costly animal, and protection was awarded them only in so far as they represented a part of their husbands' property. This the kin itself was obligated to defend and protect. The wife, however, had no other right than that. She could not complain if her lord and master increased his "family-stock" by the addition of one or more concubines, nor if he strayed about to satisfy his desires with other females. Such acts were even subservient to the kins' interest, since they led to an increase of numbers. But the women themselves who gave their persons away for such purposes could only belong to the class of outcasts; for illicit intercourse with wives and daughters of the kins was, as we shall hereafter see, severely punished. Through the formation of the class of outcasts, or at least along with it, prostitution became tolerated among the ancient Mexicans, while polygamy in the shape of concubinage was introduced as a legitimate custom.[88]

[87] Besides the famines recorded since the conquest, the older authors and sources in general notice several (at least two) previous to 1520. It is not to our purpose to discuss their dates. They are given with the usual variation and discordance. Thus for instance, the "*Codex Telleriano Remensis*" (Kingsborough, Vol. I, plate VII, and Vol. VI, p. 126) mentions one in 1404 (1 Tochtli), which is evidently incorrect, since 1 Tochtli would be 1402. The Ce-Tochtli thus mentioned, is 1454. In that year, *Durán* (Cap. XXX, p. 248) places the beginning of the great drouth which, after three years duration, so completely exhausted the Mexican stores and supplies that "wrathy chief" the older, ("Huehue Motecuzuma") told the people "que cada uno vaya á buscar su remedio" (p. 247). In consequence of it, it is reported that many people "sold their sons and daughters to the merchants and principals (señores) of the tribes that had wherewith to give them to eat, and they gave for a baby (or boy rather, "niño") a small basket of corn (maiz) to the father or mother, obligating themselves to sustain the child as long as the famine might last, for that if afterwards the father or mother might wish to redeem it, they should be obligated to pay these aliments." This is, as usual, also stated by *Tezozomoc* (Cap. XL, p. 94), though with less details. *Torquemada* (Lib. II, cap. LXXIII, p. 98) reports the same, but placing it fifty years later, under the last "wrathy chief" (Cap. CX, p. 238) in 1505, A. D. *Sahagun* (Lib. VIII, cap. I, p. 369), agrees with *Durán* and *Tezozomoc*, so does *Clavigero* (Lib. IV, cap. XII, p. 288): "Many sold themselves for food." This date is also 1451–1454. It is singular that *Torquemada* (Lib. II, cap. XLVII, p. 156) also relates the famine under the older "wrathy chief," and his words are almost textually copied by Clavigero.

[88] The possession of more than one woman, or rather the enjoyment of more than

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582 It is beyond our purpose, at present, to dwell on the
[562] ritual details themselves, but we must lay particular stress on the fact, that the wife became the *property* of her husband and that she was, as such, placed under the direct protection of his kinsmen. Such marriages could be annulled by mutual consent, [586] provided the kin gave its approbation. In such a case the woman was at liberty to marry again, and also to return to the calpulli from which she issued.[110]

764 We might now be expected to cast a glance at the funeral rites of the ancient Mexicans since it was *one of the attributes of the kin to enjoy common burial.*[111] But this question is so intimately connected with that of creed and belief that we refrain from trespassing too much on that field. The Mexicans practised cremation and, in the case of warriors slain in battle, at least, it is known that the exercises were conducted by the officers and leaders of each kin, *all its members*, and not the special relatives and friends only of the deceased, attending the ceremony.[112] Our knowledge of the burial places of aboriginal Mexico is still very indefi-

583 was given by their hand, out of which there arise great discomforts, and marriage
584 among free persons is not as free as it should be, therefore, we ordain and command: that no Indian principal of whichever condition or rank ("estado,") shall of his own accord or authority give away any wife to anybody whatsoever, nor shall he prevent any Macegual from marrying freely the woman whom he may wish, and who may like him,— under penalty of thirty days of imprisonment, and other penalties which the Judge may determine upon."

("*Concilios Provinciales, Primero y Segundo, celebrados por la muy noble, y muy Leal ciudad de Mexico etc., etc. Dalos á Luz el Ill'mo Sr. D. Francisco Antonio Lorenzana Arzobispo de esta Santa Metropolitana Iglesia* Año de 1769). The "principales Indios" are the officers of the "Kins," and thus we have, thirty five years after the conquest, a formal recognition of the custom among the Mexican Indians that marriage was controlled by the Kin. How the "encomenderos" subsequently interfered with that custom, in order to conceal their own criminal doings, is plainly told by *Fray Antonio de Remesal* "*Historia de la Provincia de San Vicente de Chyapa y Guatemala, etc., etc.*" Madrid, 1619 (Lib. VII, cap. XV, p. 327).

[110] It is singular that some of the earliest ecclesiastical writers imply that there was no rule of repudiation or divorce among the ancient Mexicans. *Mendieta* (Lib. III, cap. XLVIII, p. 303). The same authority, however, attributes this to the baneful effects of contact with the Spaniards, in consequence of which the customs of the natives grew more or less dissolute and immoral (p. 304). *Zurita* (p. 97) confirms, and *Torquemada* (Lib. XVI, cap. XXIV, p. 196), copies Mendieta literally. For the customs of divorce see *Zurita* (p. 97), *Mendieta* (Lib. III, cap. XLVIII, p. 304), *Torquemada* (Lib. XIII, cap. XV, pp. 441 and 442). *Gomara* (Vedia I, p. 440). *Herrera* (Dec. III, Lib. II, cap. C, XVII, pp. 72 and 73), *Bustamante* ("Tezcoco," p. 196), and others. The division of property mentioned as accompanying the divorce, applies only to personal effects, since the wife brought nothing else. See "*Tenure of Lands*" (p. 429, and note 107).

The matrimonial customs of the ancient Mexicans will be more thoroughly discussed by me in another monograph, subsequent to one on "Religious Beliefs."

[111] "*Ancient Society*" (pp. 71 and 83).

[112] Compare *Duran* (Cap. XVIII, pp. 134 and 136), and *Tezozomoc* (Cap. XXV, pp. 37 and 38).

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procuresses were severely punished, though not with loss of life.[126] 689

While clandestine relations between young men and girls were known to exist and, if not sanctioned, still were not punished,[127] it was different if a married man attempted to seduce a maiden who was not an outcast. The seducer was invariably punished.[128] Intercourse between unmarried people was tolerated, as a preliminary to marriage and the consequent increase of kinship, but if a husband, in contravention of the obligation "not to marry in the kin," endeavored to satisfy his lusts upon one of that kin's wards, as the daughters of members all were, then he committed [836] 684

VII, cap. XVII, p. 488), all affirm, besides, that young people, while yet in care of the "houses of training," if intoxicated, were killed. This is also confirmed by *Sahagun* (Lib. III. appendix, cap. VI, pp. 270 and 271). Except by *Motolinia* (Trat. I, cap. II, pp. 22 and 23), it is generally conceded that drunkenness was well controlled in aboriginal Mexico.

[126] Although prostitution was tolerated, still, houses of ill-fame did not exist. *Torquemada* (Lib. XII, cap. II, p. 376): "Esto parece, porque permitieron, que huviesse Mugeres, que se daban à los que querian, y se andaba á esta vida suelta, y gananciosa, como las de nuestra España, y otros Reinos; puesto que no tenian casa señalada, ni publica para la execucion de su mal oficio, sino que cada qual morava donde le parecia, y el acto deshonesto, en que se ocupaba, servia de lugar publico. y en el mismo vicio se hacia publica y se manifestaba." *Vetancurt* (Vol. I, p. 480): "Permitian los mexicanos, mujeres que ganasen con sus cuerpos, aunque no tenian lugares señalados." It is, therefore, not quite clear what may be meant by the term "alcahueta." In the sense of the French word "entremetteuse," alone, they were amenable to punishment, since it was the duty of the man to hunt his "female," although he sometimes employed women called "cihuatlanqui" for that purpose I suppose that such women were punished, not for the *immorality* of their conduct, but for their *unauthorized forwardness* in addressing themselves to men, and thus trespassing upon the dignity of that superior being. In regard to authorities on the mode of punishment, I but refer to those quoted by *Mr. H. H. Bancroft* (Vol. II, p. 489, note 101). [548] [562]

[127] I have already shown that young people held intimate relations with each other before the formalities of marriage were arranged. Thus, while he was yet at the "Telpuchcalli," the youth had his female friend, "amiga" or "manceba," outside. This is positively stated by *Sahagun* (Lib. III, appendix, cap. VI, p. 271): "y estos mancebos tenian sus amigas cada uno dós ó tres, la una tenian en su casa, y las otras estaban en las de sus familias." and *Torquemada* (Lib. XII, cap. III, p. 376). That these female "friends" were regarded with more than a feeling of platonic love, is dryly expressed by *Sahagun* (Id: cap. V, p. 270): "y los que eran amancebados ibanse á dormir con sus amigas." It is also asserted by *Torquemada* (see above): "que despues que aquel mancebo havia un Hijo, en la dicha manceba, luego le era forcoso, ó dejarla, ó recibirla por muger legitima." *Vetancurt* (Vol. I, p. 480): "los mancebos antes de casarse tenian sus mancebas, y solian pedirlas á las madres." This almost establishes promiscuity among the ancient Mexicans, as a preliminary to formal marriage.

[128] *Clavigero* (Lib. VII, cap. XVII, p. 485) says that the punishment was not like that of the adulterer, "because the husband was not required to the same amount of conjugal fidelity as the wife." With "slaves" concubinage was permitted, and the result of childbirth was freedom to the child. Death was invariably the punishment of those who held, or attempted to hold, intercourse with girls in care of the house of worship. *Zurita* (p. 106, etc.). *Mendieta* (Lib. II, cap. XXIX, p. 130): "El que hazia fuerza à virgen, ora fuese en el campo, ora en casa del padre moria por ello."

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684 a crime which the calpulli was bound to punish in the most exemplary manner.

689 While we are not at all surprised at such severity in the cases
562 above stated, it cannot fail to astonish us, that such apparently harmless acts as those of a *man wearing female dress* and of a *woman appearing in male attire* were visited upon the offenders with death.[129] Still, the ancient Mexicans could assign from their peculiar point of departure good cause for such cruel punishments. The position of woman was so inferior, they were regarded as so far beneath the male, that the most degrading epithet that could be applied to any Mexican, aside from calling him a dog, was that of "woman." It was more injurious than coward. Now, for a man to assume the garb of such an inferior being became almost equivalent to a crime against nature. It was an act of wilful degradation which was a deadly insult to his own kin. On the other hand, if a woman presumed to don the dress of her lord and master, it again was a crime of an equally heinous nature. In both cases the dignity of the whole consanguine group became deeply affected, and death alone could satisfy its honor. After this, it is needless to say how the actual crimes against nature were regarded and punished.[130]

687 It was also a capital crime for any man, to assume the dress or ornaments peculiar to an office, without being himself that office's lawful incumbent. Besides being a grave insult to the rightful officer, it was a dangerous offence towards the kin, especially in case of war, when it amounted to actual treason.[131]

684 Since it was the kin's duty to protect, not only the persons, but also the property of its members, it follows that adultery committed with a married woman entailed deadly punishment upon the male, whether he was married or not. His crime was that of stealing the most precious chattel of one member of the calpulli.

[129] This is so generally mentioned by all authors, that special references are superfluous.

[684] [130] All authors insist that incest was punished with death. *Torquemada* (Lib. XII, cap. IV, p. 380): "Todos los que cometian incesto en el primer grado de consanguinidad, tenian pena de muerte, si no eran cuñados, y cuñadas." *Mendieta* (Lib. II, cap. XXIX, p. 137). *Vetancurt* (Vol. I, p. 421). All these authors appear to have gathered their information from the same source, or rather Torquemada is frequently Mendieta's plagiary, while Vetancurt often copies Torquemada. To avoid superfluous quotation, I beg to refer, on the subject of "unnatural crimes," to *Bancroft* (Vol. II, pp. 466, 467 and 468, "*Native Races*").

[131] *Mendieta* (Lib. II, cap. XXVII, p. 132), copied by *Torquemada* (Lib. XIV, cap. III, p. 540), *Durán* (Cap. XXVI, pp. 214, 215 and 216), and others.